

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

28 WRIT PETITION NO. 9838 OF 2016

MANOJ VIKAS KOTHMBIRE
VERSUS
MAHINDRA AND MAHINDRA FINANCIAL SERVICES LTD MUMBAI
AND ANOTHER

...
Advocate for Petitioner : Kothari Pratik P

CORAM : T.V. NALAWADE, J.
DATED : 26th September, 2016.

ORDER :

1. The petition is filed to challenge the order made by the District Court on the basis of office objection taken for entertaining proceeding filed under section 34 of Arbitration Act. Heard the learned counsel for petitioner.

2. The respondent, finance corporation had referred the matter to Arbitral Tribunal for recovery of the loan amount. The Arbitral Tribunal has given award against the petitioner, which is of the amount of Rs. 3,47,330/- and further interest is also awarded. The office objection taken by the District Court shows that as per the office objection, there was the delay of 767 days caused in filing the proceeding in view of section 34 (3) of the Arbitration Act.

3. One letter sent by arbitrator dated 2.4.2014 was available before the District Court for taking the decision and this letter shows that the copy of award was sent to the present petitioner along with this letter. On that basis, limitation period is counted by the District Court. The learned counsel for petitioner submitted that such copy was actually not sent by the Arbitral Tribunal and so, the District Court ought to have given notice to other side and ought to have called the record to ascertain as to whether the copy was sent. It appears that execution proceeding is filed and such letter is filed in the said execution proceeding.

4. In view of the aforesaid circumstances, this Court asked the learned counsel for petitioner as to whether the petitioner is ready to deposit some amount like Rs. 3,00,000/- for entertaining the present proceeding. The provisions of limitation are very strict and the Court has to be very strict in the matter and the Court can ascertain only one thing that copy of award was really sent when the award is made exparte. The petitioner is present in the Court hall and the learned counsel for petitioner asked him as to whether he is ready to deposit Rs.3,00,000/-. Submission was made by the learned counsel for the petitioner that he is not ready to deposit such amount. In view of this

circumstance, nothing can be done for the petitioner and particularly due to the provisions of Arbitration Act. The petition stands dismissed.

[T.V. NALAWADE, J.]

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